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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,001

11/18/2003

Vernon Seguin

COHO-5150

4211

28584 7590 09/29/2005

STALLMAN & POLLOCK LLP  
SUITE 2200  
353 SACRAMENTO STREET  
SAN FRANCISCO, CA 94111

EXAMINER

NGUYEN, TUAN N

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/716,001	SEGUIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tuan N. Nguyen	2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/18/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/14/05;04/19/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or non-obviousness.
2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al. (US 6788722)

With respect to claims 1, 12 Kennedy et al '722 shows and discloses a laser comprising of waveguide block with at least one waveguide channel (Figs 10-11, 16A, 16B: 218a, 210a, 212, 214, 216), with carbon dioxide lasing gas and the laser resonator with axis extending through the waveguide channel (Col 4: 29-40; Col 14: 50-60; Col 15: 20-45)(Fig 16b: 140, 142), where electrode energize the laser gas and waveguide housing are formed from beryllium oxide ceramic material (Col 7: 5-10; Col 13: 15-25; Col 14: 10-25). The claim further requires the laser radiation has a wavelength of 9.3 or 9.2 and 9.7 micrometer. Kennedy et al. '722 did not

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discretely disclose the wavelength of the laser, however it has been held that where the general conditions of a claim are disclosed in the prior art, disclosing the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

With respect to claim 2, Kennedy et al '722 shows and discloses the plurality of waveguide channels in a zigzag pattern and the resonator axis if folded by at least one mirror (Col 14: 50-60; Col 20-45)(Fig 16b).

With respect to claims 3, 4 the claim further require a seven waveguide channels and Q switch arrangement. Kennedy et al '722 shows the Q switch arrangement and a minimum of five waveguide channels in a zigzag pattern (Fig 16b). It has been held that where the general conditions of a claim are disclosed in the prior art, disclosing the optimum or workable ranges involves only routine skill in the art, in this case increase the number of waveguide resonators to increase laser output. In re Aller, 105 USPQ 233.

With respect to claims 5-8, Kennedy et al '722 discloses the gas pressure about 100 torr, and pulse burst about 1KHz or greater (Col 4: 30-45), with channel depth (Col 11: 25-50), and laser radiation generate as CW radiation (Col 1: 30).

With respect to claims 9-11, the claims further require that the channels, and waveguide block, covered by beryllium oxide plate or titanium. Kennedy et al '722 discloses the use of gold plate Beryllium copper in combination of other material for the housing. It has been held that where the general conditions of a claim are disclosed in the prior art, disclosing the optimum

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or to select a known material on the basis of its suitability for the intended use a matter of design choice. *In re Leshin*, 125 USPQ 416.

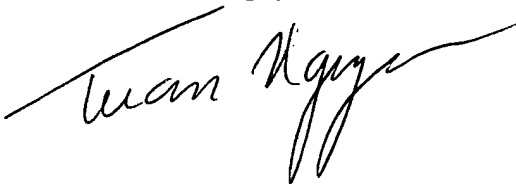
***Communication Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N Nguyen whose telephone number is (571) 272-1948. The examiner can normally be reached on M-F: 7:30 - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harvey Minsun can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan N. Nguyen



MINSUN CH HARVEY  
PRIMARY EXAMINER